

## Department of the Navy, DoD

## § 701.101

comment concerning the document is not warranted under the criteria of § 701.66(b), incorporate that determination, and the basis therefor, in the document when it is issued or submitted to a higher authority for issuance. After issuance, such document shall be published in the FEDERAL REGISTER for the guidance of the public, if required under § 701.64(b).

### **§ 701.67 Petitions for issuance, revision, or cancellation of regulations affecting the public.**

In accordance with the provisions of 32 CFR part 336, the Department of the Navy shall accord any interested person the right to petition, in writing, for the issuance, revision, or cancellation of regulatory document that originates, or would originate, for the Department of the Navy, a policy, requirement, or procedure which is, or would be, within the purview of § 701.66. The official having cognizance of the particular regulatory document involved, or having cognizance of the subject matter of a proposed document, shall give full and prompt consideration to any such petition. Such official may, at his or her absolute discretion, grant the petitioner an opportunity to appear, at his or her own expense, for the purpose of supporting the petition, if this is deemed to be compatible with orderly conduct of public business. The petitioner shall be advised in writing of the disposition, and the reasons for the disposition, of any petition within the purview of this section.

### **Subpart F—Department of the Navy Privacy Act Program**

**AUTHORITY:** Pub. L. 93-579, 88 stat. 1896 (5 U.S.C. 552a).

**SOURCE:** 59 FR 55348, Nov. 7, 1994, unless otherwise noted.

#### **§ 701.100 Purpose.**

Subparts F and G of this part implement the Privacy Act (5 U.S.C. 552a), and DoD Directive 5400.11<sup>1</sup>, and DoD

5400.11-R<sup>2</sup>, (see 32 CFR part 310) and provides Department of the Navy policies and procedures for:

(a) Governing the collection, safeguarding, maintenance, use, access, amendment, and dissemination of personal information kept by Department of the Navy in systems of records;

(b) Notifying individuals if any systems of records contain a record pertaining to them;

(c) Verifying the identity of individuals who request their records before the records are made available to them;

(d) Notifying the public of the existence and character of each system of records.

(e) Exempting systems of records from certain requirements of the Privacy Act; and

(f) Governing the Privacy Act rules of conduct for Department of the Navy personnel, who will be subject to criminal penalties for noncompliance with 5 U.S.C. 552a, as amended by the Computer Matching Act of 1988.

#### **§ 701.101 Applicability.**

This subpart and subpart G of this part apply throughout the Department of the Navy. It is also applicable to contractors by contract or other legally binding action, whenever a Department of the Navy contract provides for the operation of a system of records or portion of a system of records to accomplish a Department of the Navy function. For the purposes of any criminal liabilities adjudged, any contractor or any employee of such contractor is considered to be an employee of Department of the Navy. In case of a conflict, this subpart and subpart G of this part take precedence over any existing Department of the Navy directive that deals with the personal privacy and rights of individuals regarding their personal records, except for disclosure of personal information required by 5 U.S.C. 552 (1988) as amended by the Freedom of Information Reform Act and implemented by Secretary of the Navy Instruction

<sup>1</sup>Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

<sup>2</sup>See footnote 1 to § 701.100.

5720.42E<sup>3</sup>, “Department of the Navy Freedom of Information Act Program.”

#### § 701.102 Definitions.

For the purposes of this subpart and subpart G of this part, the following meanings apply.

(a) *Access*. The review or copying of a record or parts thereof contained in a system of records by any individual.

(b) *Agency*. For the purposes of disclosing records subject to the Privacy Act between or among Department of Defense (DoD) components, the Department of Defense is considered a single agency. For all other purposes, Department of the Navy is considered an agency within the meaning of Privacy Act.

(c) *Confidential source*. A person or organization who has furnished information to the Federal Government either under an express promise that the person's or the organization's identity will be held in confidence or under an implied promise of such confidentiality if this implied promise was made before September 27, 1975.

(d) *Defense Data Integrity Board*. Consists of members of the Defense Privacy Board, as outlined in DoD Directive 5400.11 and, in addition, the DoD Inspector General or the designee, when convened to oversee, coordinate and approve or disapprove all DoD component computer matching covered by the Privacy Act.

(e) *Disclosure*. The transfer of any personal information from a system of records by any means of communication (such as oral, written, electronic, mechanical, or actual review), to any person, private entity, or government agency, other than the subject of the record, the subject's designated agent or the subject's legal guardian.

(f) *Federal personnel*. Officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals or survivors thereof, entitled to receive immediate or deferred retirement benefits under any retirement program of

the Government of the United States (including survivor benefits).

(g) *Individual*. A living citizen of the United States or alien lawfully admitted to the U.S. for permanent residence. The legal guardian of an individual has the same rights as the individual and may act on his or her behalf. No rights are vested in the representative of a deceased person under this instruction and the term “individual” does not embrace an individual acting in a non-personal capacity (for example, sole proprietorship or partnership).

(h) *Individual access*. Access to information pertaining to the individual by the individual or his or her designated agent or legal guardian.

(i) *Maintain*. Includes maintain, collect, use, or disseminate.

(j) *Member of the public*. Any individual or party acting in a private capacity.

(k) *Minor*. Under this subpart and subpart G of this part, a minor is an individual under 18 years of age, who is not a member of the U.S. Navy or Marine Corps, nor married.

(l) *Official use*. Under this subpart and subpart G of this part, this term is used when Department of the Navy officials and employees have a demonstrated need for the use of any record or the information contained therein in the performance of their official duties.

(m) *Personal information*. Information about an individual that is intimate or private to the individual, as distinguished from information related solely to the individual's official functions or public life.

(n) *Privacy Act (PA) request*. A request from an individual for notification as to the existence of, access to, or amendment of records pertaining to that individual. These records must be maintained in a system of records.

(o) *Record*. Any item, collection, or grouping of information about an individual that is maintained by a naval activity including, but not limited to, the individual's education, financial transactions, and medical, criminal, or employment history, and that contains the individual's name or other identifying particulars assigned to the individual, such as a finger or voice print or a photograph.

<sup>3</sup>Copies available from Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350-2000.